IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 20921 of 2003

Between:

1 G. Saibaba S/o Naganna, R/o House No. 7-4-94, Kesav Nagar Gadwal, Mahaboobnagar District.
2 G. Venkat Ramulu S/o Naganna, R/o House No. 7-4-94, Kesav Nagar, Gadwal, Mahaboobnagar District

..... PETITIONERS

AND

1 Municipality of Gadwal rep. by Commissioner Gadwal, Mahaboobnagar district
2 Smt. C. Shyamala W/o. G. Ramesh Bheemnagar, Gadwal, Mahabubnagar

* R2 is impleaded as per Court order dt. 10-12-2004 in WPMP 4918 of 2004.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, order or direction, preferably a Writ in the nature of Mandamus, declaring the order in Rc. No. A/329/2003 dt 1-4-2003 as being illegal, arbitary violative of Principles of natural justice and violative of Articles 14 and 300-A of the constitution of India and set a side the same.

Counsel for the Petitioners:MR.P.VENUGOPAL

Counsel for the Respondent No.2: MR.C.B.RAM MOHAN REDDY

Counsel for the 1st Respondent : GP for Municipal Administration

The Court made the following :

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THE HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION NO.20921 OF 2003

***ORDER*:**

Having purchased a site from the ostensible owner under a registered sale deed dated 03.02.2003 petitioners applied for mutation of their names in the municipal registers. By the order dated 17.02.2003, 1st respondent (Commissioner) informed the petitioners that their names are mutated in the assessment register. Thereafter, 2nd respondent, claiming to be the real owner of the property, filed a petition before the 1st respondent seeking cancellation of the mutation of names of the petitioners. On that petition, even without issuing notice to the petitioners, 1st respondent by the order impugned in this petition cancelled the mutation made in favour of the petitioners. Hence this writ petition.

2. The contention of the learned Counsel for the writ petitioners is that since no notice was given to the writ petitioners before canceling the mutation made in favour of the petitioners the order impugned is liable to be set aside. The contention of the learned Counsel for the 2nd respondent is that since Alteration of Ownership of Property in Assessment Books Rules 1966 contemplate notice being issued to the real owner, and in this case, since no notice was given to the 2nd respondent before ordering mutation of the names of petitioners by the order impugned in the writ petition such mutation was cancelled. It is his contention that since 2nd respondent had filed a suit claiming title to the property this petition is not maintainable.

3. It is well known that mutation, *per se* does not confer title in favour of the person in whose name the property is mutated. When 1st respondent mutated the name of the petitioners in the assessment register in pursuance of the sale deed executed by the ostensible owner, he ought to have issued a notice to the petitioners on the application filed by the 2nd respondent to cancel the mutation made in their favour as

per the principles of natural justice. Since no such notice is issued it is clear that principles of natural justice are violated. For that reason only the order dated 01.04.2003 impugned in this petition is liable to be set aside and hence is set aside and the matter is remitted to the 1st respondent for disposal of the application filed by 2nd respondent after giving an opportunity of being heard to the petitioners. It is made clear that the suit filed by the 2nd respondent shall be tried and disposed of on its own merits without being influenced by this order.

The writ petition is disposed of accordingly. No costs.

31st January, 2005

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Copy to:

1. The Commissioner, Gadwal Municipality,
Mahaboobnagar District.

2. Two C.Cs to the Government Pleader for Municipal Administration, High Court Buildings, High Court of A.P., Hyderabad (O.U.T)

3. Two C.D. copies.